

# EXHIBIT “F”

U.S. DISTRICT COURT  
FOR THE WESTERN DISTRICT  
OF PENNSYLVANIA

\* \* \* \* \*

TINA LINDQUIST,                   \*  
Plaintiff                           \*   Case No.  
vs.                                   \*   04-249-ENE  
HEIM, LP,                           \*  
Defendant                           \*

\* \* \* \* \*

DEPOSITION OF  
JOEL NICHOLS  
July 22, 2005

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1 Q. Okay.

2 A. That's a 32-inch hydroform at  
3 the time the accident happened.

4 Q. Okay. You were at it?

5 A. Yeah.

6 Q. Why don't you draw that on  
7 there then, if you would, please?

8 WITNESS COMPLIES

9 BY ATTORNEY ROBINSON:

10 Q. Then you were standing at the  
11 32-inch hydroform when the accident  
12 happened?

13 A. Yeah. Prior to that, I went  
14 up to Tina Lindquist and told her ---  
15 you know, asked her to stand up at  
16 the press. She might be more  
17 comfortable standing at it than  
18 sitting, you know, in order to  
19 prevent that accident. Because like  
20 I said, when I worked at Tonnard, the  
21 accidents I seen up there happened  
22 with a foot pedal. And the reason  
23 for that is what I call riding the  
24 pedal. You know, keeping your foot  
25 overtop of the pedal ---

1 Q. Uh-huh (yes).

2 A. --- and I knew that particular  
3 part and the operation she was doing  
4 on there, she was going to have to be  
5 leaning into the machine to squeeze  
6 that part around that mandrel, and  
7 her chances of --- if she was riding  
8 the pedal, ---

9 Q. Yeah.

10 A. --- of tripping it, ---

11 Q. Yeah.

12 A. --- were pretty good.

13 Q. Do you think this accident  
14 happened because she was riding the  
15 pedal?

16 A. It's a possibility.

17 Q. Do you know of any other way  
18 it could have happened other than her  
19 riding the pedal?

20 A. Machine malfunction.

21 Q. Has anyone ever suggested that  
22 the machine malfunctioned?

23 A. No, that's the only --- those  
24 are the only two possibilities.

25 Q. If we remove machine

1 malfunction from the possibilities,  
2 do you know of any other way this  
3 accident could have happened other  
4 than her riding the pedal?

5 A. No.

6 Q. Because the pedal is actually  
7 protected with the housing; isn't it?

8 A. Yeah.

9 Q. So you can't accidentally just  
10 step on it?

11 A. Right.

12 Q. You have to actually insert  
13 your foot into it and then push ---

14 A. Right.

15 Q. --- down; right?

16 A. Right.

17 Q. And have you seen operators  
18 ride the pedal before?

19 A. Yeah.

20 Q. Have you seen Tina Lindquist  
21 ride the pedal before?

22 A. No, not that particular time.  
23 As far as I know, that was the first  
24 time she had ran the press brake was  
25 that day there. Because I don't

1 remember her running the press brake  
2 prior to that day.

3 Q. Do you remember her operating  
4 any other presses at the plant?

5 A. Yeah.

6 Q. What ---?

7 A. One of the smaller punch  
8 presses.

9 Q. Did you ever see her operating  
10 any press brakes that were operated  
11 by a foot switch besides this one?

12 A. No.

13 Q. And I saw a reference in the  
14 internal accident report from ---

15 A. Right.

16 Q. --- Corry about your  
17 conversation that you had with Tina  
18 Lindquist before ---

19 A. Yeah.

20 Q. --- her injury. It sounds  
21 like that conversation occurred  
22 shortly before her injury?

23 A. Within 15 minutes before the  
24 injury happened.

25 Q. And what shift were you

1 working?

2 A. I was working first shift at  
3 the time.

4 Q. Which would be what time, sir?

5 A. That would be quarter to 7:00  
6 in the morning till 3:15 in the  
7 afternoon would be the first shift.

8 Q. Okay. And Tina Lindquist was  
9 working that same shift; is that  
10 right?

11 A. Yes.

12 Q. All right. And, I understand,  
13 Tina Lindquist was working on the  
14 Heim press brake during that shift?

15 A. Yes.

16 Q. And you were working at the  
17 32-inch hydroform that you've drawn  
18 on Exhibit Z?

19 A. Right.

20 Q. And what caused you to ---  
21 well, first of all, where did this  
22 conversation occur?

23 A. Over at the press brake.

24 Q. Did you walk from the 32-inch  
25 hydroform to the press brake?

1 A. Yes.

2 Q. Did you walk over with the  
3 specific purpose of having a  
4 conversation with Tina Lindquist  
5 because she was sitting ---

6 A. No, because I was ---.

7 Q. --- at a chair?

8 A. I was logging onto a job for  
9 the 32-inch which I had to pass by  
10 the press brake to log onto the  
11 computer.

12 Q. Okay. And where was the  
13 computer?

14 A. We need another doorway here  
15 (indicating).

16 Q. Would you show that, if you  
17 can?

18 WITNESS COMPLIES

19 A. Okay. We have a doorway here  
20 (indicating).

21 BY ATTORNEY ROBINSON:

22 Q. Sure.

23 A. Another section of the  
24 building out here (indicating) where  
25 they do the tack --- you know,



1 tacking and braising ---

2 Q. Okay.

3 A. --- out at this area. You  
4 have another doorway that comes here  
5 (indicating) to the outside.

6 Q. Yeah.

7 A. And right here (indicating) at  
8 that doorway is a computer to ---.

9 Q. Put a C on it is all we need  
10 to do; if you would please?

11 WITNESS COMPLIES

12 A. Okay.

13 BY ATTORNEY ROBINSON:

14 Q. Thank you.

15 A. That's the computer logon I've  
16 drawn right there (indicating). So I  
17 have to walk down past the press  
18 brake, you know, by the 250 ton,  
19 through that doorway, to logon that  
20 job. And on my way back through, I  
21 had stopped at the press brake, you  
22 know, and suggested to Tina to stand  
23 up so she wouldn't ride the pedal.  
24 Other than that, you know, I'd asked  
25 --- you know, I'd ask her to be very

1 careful on that. You know, it's like  
2 I said, I've seen way too many  
3 accidents happen up at Tonnard. I  
4 didn't want to see an accident happen  
5 to her, and it ended up happening  
6 anyway.

7 Q. And shortly after you told  
8 her, it sounds like?

9 A. Yeah.

10 Q. Did she hear you?

11 A. Yeah, because I stopped at the  
12 press and I was talking to her.

13 Q. Would you --- can you relay,  
14 for us, in as much detail as you can,  
15 the conversation that you and Tina  
16 had at that time? You said this was  
17 approximately 15 or so minutes before  
18 the accident?

19 A. Yeah.

20 Q. And I know you might not have  
21 it verbatim, but as best as you can,  
22 tell us what each of you communicated  
23 to each other, please.

24 A. Like I said, basically what I  
25 communicated to her was, you know,

1 asking her if she could stand up at  
2 it.

3 Q. Did you see her sitting down?

4 A. Yeah, she was sitting at the  
5 press.

6 Q. I saw a number of chairs out  
7 here in this room (indicating). Have  
8 you seen those?

9 A. Yeah.

10 Q. Sitting up on the counters and  
11 some are sitting ---

12 A. Yeah.

13 Q. --- in front of the machines?

14 A. Right. None of those are like  
15 the chairs that are over in Building  
16 Three.

17 Q. Okay. What was --- can you  
18 describe the chair that she was  
19 sitting in when you saw her?

20 A. It was a black, you know,  
21 height-adjustable chair.

22 Q. Okay. The ones out there are  
23 black height-adjustable chairs as  
24 well; are they not?

25 A. I didn't see any ones that

1 were.

2 Q. Okay. All right. How many  
3 legs?

4 A. I'd say up to about five.

5 Q. Okay. Does it have a little  
6 bar down at the bottom between two of  
7 the legs where you can put your feet?

8 A. Yeah.

9 Q. All right. So far we're  
10 describing what I've seen out here.

11 A. Yeah.

12 Q. Maybe ---.

13 A. There's a lever here in ---  
14 it's got the lever on the side to  
15 adjust the height on it.

16 Q. Yeah. Okay. Maybe before we  
17 go off the record but after we're  
18 done with the questions we can go  
19 look at one of the chairs out here  
20 and you can tell me if that looks  
21 like one of them?

22 A. All right.

23 Q. And when you walked over to  
24 her, was she sitting in her chair?

25 A. Yeah, she was sitting in her

1 chair.

2 Q. Completely sitting?

3 A. Yeah.

4 Q. Were her feet off the ground?

5 A. I didn't notice that, but ---.

6 Q. Where was the foot switch  
7 located?

8 A. It was far enough out to where  
9 she was able to get her foot to it.

10 Q. How far was the chair from the  
11 press brake at that time?

12 A. Pretty close, because like I  
13 said, you had to actually lean into  
14 the press a little bit to get that  
15 part to squeeze.

16 Q. Did you see her leaning into  
17 the press while she was working on  
18 that press brake?

19 A. You didn't have to, because  
20 I've had to run that before. And  
21 like I said, I've always stood at  
22 that and I've always, you know ---  
23 I've had to lean into it to get those  
24 parts to squeeze around that mandrel.

25 Q. And did you see her leaning

1 Q. What other operators have used  
2 the --- before her accident, have  
3 used the two-palm button switch to  
4 operate the Heim press brake?

5 A. It was depending on the  
6 operator and what job you're doing.

7 Q. How about this particular job  
8 that --- this 1707 part that Tina was  
9 forming at the time of her accident.  
10 You had said that you always operated  
11 the Heim press brake when forming  
12 that part with the two-palm button  
13 control; is that right?

14 A. Yeah.

15 Q. And do you know of other  
16 people that would operate the Heim  
17 press brake when making this 1707  
18 part with the two-palm button switch?

19 A. Some, but not all.

20 Q. And who else would?

21 A. I can't recollect at this  
22 point in time.

23 Q. Okay.

24 A. I mean, it's been so long  
25 since they've redone the tooling down

1     there that you don't --- you don't  
2     use the foot pedal on them --- the  
3     press brakes over here anymore.

4     Q.       Except for the one?

5     A.     ~~All except for that one~~  
6     particular job.

7     Q.       There are certain --- I  
8     understand there are certain jobs  
9     that --- where you can't use a two-  
10    palm button ---.

11    A.       Right, just this one  
12    particular job that I know of that  
13    --- right offhand.

14    Q.       Could the operator decide  
15    whether or not to use this foot  
16    switch or the two-palm button switch  
17    like you did?

18    A.       Yes, because of the light  
19    curtains that are on the press brakes  
20    we have now, yes.

21    Q.       No, I mean, before this  
22    accident, did an operator such as  
23    Tina Lindquist have the ability to  
24    operate this particular press brake  
25    with the two-palm button switch

1       rather than ---

2       A.           Yeah.

3       Q.           --- the ---?

4       A.           Upon her request, yes. But  
5       like I said, the set-up man at the  
6       time was always in a hurry and he'd  
7       always tell people that they're  
8       wasting time, that the foot pedal was  
9       faster.

10      Q.           But would he tell you --- did  
11      he ever tell you that you could not  
12      use the foot switch --- or you could  
13      not use the two-palm button switch?

14      A.           It basically wasn't his  
15      decision. It was basically operator  
16      preference of whether he wanted the  
17      foot pedal or hand button, but he  
18      would still argue with you about it.

19      Q.           Okay. Was he a supervisor of  
20      operations?

21      A.           He was a group leader. He  
22      wasn't a supervisor.

23      Q.           Was he a boss of the operators  
24      --- press operators?

25      A.           I really wouldn't say the boss



1 because the foreman's the boss.

2 Q. Did he have the ability to  
3 tell you, as a press operator of this  
4 Heim press brake, to use the foot  
5 switch?

6 A. No, because as far as I know,  
7 an operator can, you know --- if  
8 they're not comfortable with the way  
9 something is set up, they can refuse  
10 to run it the way that it is set up.

11 Q. Were you taught that during  
12 your training with Corry, that you  
13 had the ability ---

14 A. Yeah.

15 Q. --- as an operator to choose  
16 the ---?

17 A. Right, it's --- you know, it's  
18 common sense. I mean, if you don't  
19 feel something's safe you can, you  
20 know, bring it to your set-up man's  
21 attention or your supervisor's  
22 attention. And you have to get, you  
23 know --- they have to do something  
24 about it to where it's not ---.

25 Q. Did you ever bring up with

1 anyone --- any supervisor your  
2 position that using the foot switch  
3 was not --- the manner in which it  
4 was being used was not safe?

5 A. You know, the set-up man,  
6 which I told him, you know, I don't  
7 like the foot switch, I'd rather use  
8 the hand button.

9 Q. And I mean other than Bob  
10 Rooney?

11 A. No, we went through so many  
12 supervisors over in Building Three' it  
13 was almost pointless to talk to a  
14 supervisor.

15 Q. Why have they done through so  
16 many supervisors?

17 A. Honestly, I don't know. It  
18 might have to do with something with  
19 production or whatever. I'm not  
20 exactly sure.

21 Q. Do you remember Gary Deitz  
22 (phonetic) being the supervisor at  
23 the time ---

24 A. Yes.

25 Q. --- of this incident?

1 Q. Did that warning exist on the  
2 press brake at the time Tina  
3 Lindquist was injured?

4 A. Yes, it did.

5 Q. And was that fastened directly  
6 to the --- on the front of the press  
7 brake and facing the operator?

8 A. Yes.

9 Q. Is there anything that  
10 obstructed Tina Lindquist's ---

11 A. No.

12 Q. --- view of that?

13 A. No.

14 Q. Tina Lindquist has also  
15 testified that she has never seen  
16 that warning and never noticed that  
17 warning, at any time, before her  
18 injury. Do you have any explanation  
19 as to anything that would have  
20 prohibited her from seeing that  
21 warning?

22 A. No.

23 Q. The very first warning says to  
24 never place any part of your body  
25 under the ram or within the die area;

1 do you see that?

2 A. Yeah.

3 Q. Is that easy for you to  
4 understand?

5 A. Yeah.

6 Q. What does that --- what is  
7 that telling you?

8 A. Don't get your hands in the  
9 way of operating the machine.

10 Q. Okay. And it says, never, so  
11 under any ---

12 A. Right.

13 Q. --- circumstances; right?

14 A. Right.

15 Q. Okay. The next warning says  
16 to never operate, install dies or  
17 maintain this machine without proper  
18 instruction and without first reading  
19 and understanding the operator's or  
20 machine manual?

21 A. Right.

22 Q. Do you have any trouble  
23 understanding that?

24 A. No.

25 Q. And what is that telling you?

1 A. If you're not qualified, don't  
2 run it.

3 Q. Is it also telling you to make  
4 sure you read the operator's manual  
5 with this?

6 A. Right.

7 Q. And we talked to two  
8 maintenance personnel, so far, that  
9 have said the manual ---

10 A. It always tucked along the  
11 side.

12 Q. There you go. We're looking  
13 at Corry P, Photo 40. It shows the  
14 side of the Heim press brake and it  
15 has a bin and it has an operator's  
16 manual in the bin; is that right?

17 A. Yes.

18 Q. And did that operator's manual  
19 exist in the machine, the Heim press  
20 brake, at the time of her injury?

21 A. Yes, it did. All the presses  
22 have them.

23 Q. So it was available to any  
24 operator who chose to read it ---

25 A. Right.